

# Open Letter to Vice-President Frans Timmermans

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Gráinne de Búrca , Wojciech Sadurski Sa 9 Jun 2018

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European Commission

8 June, 2018

Dear Vice-President Timmermans,

We write as legal and constitutional scholars who are particularly concerned with the European Union, democracy, and the rule of law.



We believe that the time has come for the EU institutions, and the Commission in particular, to take urgent and decisive steps to respond to recent actions of the Polish government that constitute an assault on the rule of law in that country. The Law and Justice government has adopted laws relating to the courts, the National Council of the Judiciary and the Supreme Court which, when taken together, substantially undermine judicial independence and subordinate the judiciary to the governing party.

The procedure already initiated under Article 7 TEU has thus far brought about only cosmetic amendments to the laws introduced by the government of Poland. We believe that the law on the Supreme Court should be made the subject of urgent and immediate infringement proceedings under Article 258 and Article 279 TFEU to highlight the violation of provisions such as Articles 2, 4(3) and 19(1) of the Treaty on European Union that the law on the Supreme Court would bring about.

If the law on the Supreme Court enters into force in the beginning of July, as is currently planned, a large number of sitting judges of that Court will see their tenure unconstitutionally extinguished. In combination with an increase in the number of seats on the Supreme Court, this means that the newly politicized National Council of the Judiciary, elected by the governing party, will be in a position to appoint a majority of the judges on the Supreme Court. We believe this to be in direct contravention of the rule of law, which is proclaimed as a core value of the EU in Article 2 TEU, and of the fundamental requirement of the independence of the judiciary which is a key component of the rule of law.

We urge the Commission to take the immediate necessary steps to initiate the infringement procedure, with a view to enabling the Court of Justice, in case these laws are not reversed, to rule on the matter.

In addition to the threat to the rule of law in Poland, we believe that the credibility of the European Union as a whole, and its commitment to the rule of law, is at stake.

Yours sincerely,

**Wojciech Sadurski**, University of Sydney, University of Warsaw

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